MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2017/2018

UIP2612 – INTELLECTUAL PROPERTY LAW

(All Sections / Groups)

12 OCTOBER 2017
Reading Time: 09.00 a.m.– 09.15 a.m.
(15 Minutes)
Answering Time: 09.15 a.m. – 12.15 p.m
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 4 questions only.

3. Attempt ALL questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of:
   i. Copyright Act 1987 (Act 332);
   ii Patents Act 1983 (Act 291);
   iii Industrial Designs Act 1996 (Act 552);
   iv Trade Marks Act 1976 (Act 175)

   Students are not allowed to lend or borrow statute(s) during the Examination.

5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

Answer either part (A) or part (B) only.

(A) (i) Describe the two public goods characteristics of information.

(3 marks x 2 = 6 marks)

(ii) Explain how a market failure for new inventions may occur in the absence of intellectual property rights protection.

(9 marks)

(iii) Explain how both patent protection and the tort of breach of confidence may cure the above market failure problem.

(5 marks x 2 = 10 marks)

(Total: 25 marks)

~~~~~~~~~~ OR ~~~~~~~~~~

(B) "Nor was this appropriation of any parcel of land, by improving it, any prejudice to any other man, since there was still enough, and as good left; and more than the yet unprovided could use. So that, in effect, there was never the less left for others because of his enclosure for himself: for he that leaves as much as another can make use of, does as good as take nothing at all. No body could think himself injured by the drinking of another man, though he took a good draught, who had a whole river of the same water left him to quench his thirst: and the case of land and water, where there is enough of both, is perfectly the same."

Per John Locke, *Second Treatise of Government* (1690), ch V, para 33.

Discuss how copyright law may be reconciled with the Lockean proviso above in the theory of property.

(Total: 25 marks)

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QUESTION 2

The protection of electronic database under the Copyright Act 1987 is in a state of confusion.

Discuss.

(Total: 25 marks)

QUESTION 3

Adam is a factory foreman at Comfy Ltd, which manufactures mattresses. Over the years, he has come to understand the production process of mattresses well and has adjusted the machinery to produce more hard-wearing mattresses. The production process of the foam used for the mattresses is well maintained and monitored by a specially programmed computer-controlled mechanical process.

His wife, Sarah is the sales manager at Comfy Ltd. She has an excellent and a long-term relationship with Comfy Ltd's customers. By accident, Sarah has received a letter meant only for Comfy Ltd's directors outlining a plan to introduce a revolutionary new mattress. This letter contained information relating to new marketing and advertising promotions, and the possibility of adopting a new technique for producing mattresses. Sarah also has overheard one director on the telephone, making plans to join another rival company. She is aware that this same director has "insider dealing" with Comfy Ltd's shares.

Meanwhile, Adam and Sarah have been offered better-paying jobs by Sleepy Ltd. Naturally, Sleepy Ltd would be interested in all the relevant information which they have about the mattress business and Comfy Ltd.

Advise Adam and Sarah on how much of this information they can safely reveal, without a breach of confidence?

(Total: 25 marks)

Continued...

QUESTION 4

Answer either part (A) or part (B) only.

(A) Two companies now distinct but sharing a common origin, have similar names: Genting Casino and Genting Holdings. Genting Casino successfully applied to register the domain name "genting-online-casino.com" but did not make use of it for a period of time. Due to an error the domain name was re-allocated to Genting Holdings. Genting Casino complained when it found out that the name was allocated to Genting Holdings. Genting Casino commenced proceedings wanting the domain name transferred back to it claiming inter alia that its use by Genting Holdings was passing off.

Apply the relevant case law to the above to illustrate whether there is any legal basis in the contention put forwarded by Genting Casino.

(Total: 25 marks)

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(B) Sam is an interior designer who has established two companies, Virgo-Star Sdn Bhd and Scorpio Star Sdn Bhd, to promote various aspects of his skills as a freelance worker. He designed the logo for Virgo-Star using the name of a star in the constellation. This was represented in graphic form for use as a company logo. This was in 2011. In order to expand his work overseas he is thinking of obtaining trade marks in his name and logo.

One day after searching the Internet he discovers another company advertising on the Internet using the two names of his company with an almost identical logo. He learns that they are registered trade marks. Upon inquiring he learns that this company was founded in 2005. However, his request to get more information on how this company obtained the design, name and the similarity between the two companies is left unanswered.

Advise Sam whether he could rely on Section 40 of the Trade Marks Act 1976.

(Total: 25 marks)

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